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SUBJECT: NICARAGUA: GON COOPERATION IMPROVES DURING FEBRUARY MEETING
ON PROPERTY CLAIMS

REF: A) MANAGUA 274, B) MANAGUA 173, C) MANAGUA 0106,
D) MANAGUA 0002, E) 07 MANAGUA 2581, F) 01 MANAGUA 2313, G) 04
MANAGUA 2442, H) 04 MANAGUA 2324

SUMMARY

1. (SBU) During the February 28 monthly Working Group meeting on property issues, Embassy Property Office and Government of Nicaragua (GON) officials reviewed 50 U.S. claims and discussed ways that the USG and GON could cooperate to attain their favorable resolution. One official from the National Confiscations Review Commission told us that the GON would allow some U.S. citizens to defend claims dismissed as "no ha lugar" in 2007. We raised concerns about the application of anti-Somoza decrees and pressed GON officials to explain the process used to determine a claimant to be "an ally of Somoza." The Head of the Office of Assessment and Indemnification said the GON would do more to protect individuals who benefited under the "Pinata" laws, a potentially negative development. The Embassy will utilize the GON's newfound, but likely short-lived, spirit of cooperation to resolve claims, clarify the application of certain laws, and press for more flexibility and transparency to provide claimants the opportunity to defend their recently dismissed cases.

PRODUCTIVE DISCUSSION WITHOUT SUPERINTENDENT PEREZ

2. (SBU) During the February 28 monthly Working Group meeting, Econoff met with two officials from the National Confiscations Review Commission (CNRC) and with the head of the Office of Assessment and Indemnification (OCI) to discuss the list of U.S. claims Attorney General Hernan Estrada passed to the Ambassador at the six-month review of the 2007-08 waiver year on February 26 (Ref A), and to review 14 additional cases provided by the Property Office. Property Superintendent Yara Perez did not attend the meeting, which allowed for constructive casework and frank discussion concerning GON policies. During previous Working Group meetings, Perez dominated discussions with accusations of corruption against U.S. claimants and obstructed the sharing of information with the Embassy Property Office (Refs B, E, G, and H).

THOROUGH REVIEW OF 50 CLAIMS

3. (SBU) GON officials and the Property Office staff reviewed 50 U.S. claims on a case-by-case basis to discuss next steps for favorable resolution. GON officials explained that they would send settlement offers to 15 claimants; another 15 claims might be resolved favorably if certain documents were provided to OCI. The

head of OCI noted that 6 claims were previously resolved in favor of the claimant, but the claimants had rejected the settlement offers. With regard to the 14 additional claims provided by the Property Office, GON officials said they would review each claim and provide an update on their status at the March Working Group meeting. Econoff asked the GON to provide a list of documents that the 15 claimants needed to provide to OCI, and added that the Embassy will contact the 6 claimants who rejected settlement offers to fully understand their concerns and suggest that they continue their negotiations.

FLEXIBILITY TO DEFEND DISMISSED "CLAIMS"

14. (SBU) Econoff pressed GON officials on better cooperation and more flexibility to allow U.S. citizens to defend claims dismissed as "no ha lugar" in 2007 (Ref B). One CNRC official clarified that some U.S. claimants are allowed to submit documents to show that they either owned the property in question and/or that it had been confiscated. She added that the CNRC notified 24 claimants that the GON had dismissed their cases, adding that these could no longer be pursued via the administrative process. Econoff asserted that the USG will not recognize these dismissals if U.S. claimants are not given an opportunity to defend their claims in a fair and transparent manner.

CLARITY ON THE APPLICATION OF ANTI-SOMOZA DECREES

15. (SBU) Econoff raised concerns about the GON's recent decision to apply Decrees 3 and 38, which mandated the confiscation of property of "allies of Somoza," against 21 claims (Ref B). Econoff complained that the application of these decrees appears to be an arbitrary and non-transparent process, complicating USG-GON efforts to resolve outstanding claims. He explained that the claims that the Ortega administration recently dismissed based on those decrees had been previously accepted as legitimate claims by the Chamorro, Aleman, and Bolanos administrations. Econoff noted that some claimants also received certificates acknowledging that were not "Somocistas," and he asked if the GON had a process to allow claimants to clear their names. CNRC and OCI officials suggested that these concerns be raised with Attorney General Estrada [Note: The Embassy is preparing a letter to Attorney General Estrada asking for clarification regarding the application of Decrees 3 and 38, and whether an appeals process is available for affected claimants. End Note].

PROTECTION FOR THE PINATEROS

16. (SBU) OCI officials said Estrada has recently decided to enforce the provision in Law 278/1998 that states that the Attorney General's Office would intervene in court cases to protect and defend those individuals who received property under the Pinata laws, i.e., Pinateros (Ref E). Econoff requested an explanation of how the GON would apply this statute and its impact on U.S. claimants. OCI officials suggested that the Embassy address these questions to Attorney General Estrada [Comment: We are concerned that the GON will improperly apply the law to protect illegal occupants of confiscated property, using it as a basis for not returning property to the uncompensated owners. End Comment.].

COMMENT

17. (SBU) The absence of Property Superintendent Yara Perez allowed us to communicate more freely with other GON officials and conduct in-depth case work to identify the next steps in resolving U.S. claims. The Ambassador's six-month review with Estrada may have opened the door to better USG-GON cooperation. We will capitalize on the GON's newfound, but likely short-lived, spirit of cooperation to press forward on resolving claims, clarify the application of certain laws, and to afford claimants the opportunity to defend cases subject to dismissal.

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